

ANSWER OF DEFENDANTS AND AFFIRMATIVE DEFENSES

4. Denied as stated. It is admitted that Plaintiffs purport to bring claims under and pursuant to 28 U.S.C. §1332(d)(2). It is denied that Plaintiffs have claims as alleged.

5. Denied as stated. It is admitted that this Court would have jurisdiction pursuant to 28 U.S.C. 1367. It is denied that Plaintiffs have any claims under the said statutes.

6. Denied as stated. It is admitted that this Court has venue under 28 U.S.C. §1391. It is denied that there have been events or omissions giving rise to any cause of action.

7. Admitted.

8. Denied except it is admitted that Plaintiff is an adult individual and that Exhibit “A” is a copy of a consent.

9. Denied except it is admitted that Plaintiff is an adult individual and that Exhibit “B” is a copy of a consent.

10. Admitted.

11. Denied. The website being in writing speaks for itself. By way of further answer Defendant All American Home Care is a home care provider licensed by the Pennsylvania Department of Health and certified by Joint Commission of Accreditation; serves chronically ill patients at home; receives service orders from OLTL-Office of Long Term Living; and assigns Person Care Aides (“PCA”) to service the consumers at home. Based on these service orders the company serves the consumers daily.

12. Denied. Said Defendant is located at 332 Bustleton Pike, Feasterville, Pennsylvania.

13. Denied. The website being in writing speaks for itself. By way of further answer, All American Hospice is a state licensed Medicare certified end of life agency. The agency provides care at home, skilled nursing facilities and hospitals. The care is provided to patients that meet the hospice end of life criteria.

14. Admitted.

15. Denied. See answers to 10 and 12 above.

16. Denied.

17. Denied.

18. Denied. The averment constitutes a conclusion of law to which no response is required.

19. Denied. The averment constitutes conclusions of law and to the extent a response is required, Defendants deny the averment of this paragraph.

20. Denied. The averment constitutes a conclusion of law to which no response is required.

21. Denied. The averment constitutes conclusions of law and to the extent a response is required, Defendants deny the averment of this paragraph.

22. Denied. The averment constitutes a conclusion of law to which no response is required.

23. Denied. The averment constitutes a conclusion of law to which no response is required.

24. Admitted.

25. Admitted.

26. Denied. Defendants are without knowledge or information sufficient to form a belief as to the truth of this averment and Plaintiffs are left to their proofs.

27. Denied. Defendants are without knowledge or information sufficient to form a belief as to the truth of this averment and Plaintiffs are left to their proofs.

28. Denied. The averment constitutes a conclusion of law to which no response is required.

29. Denied. The averment constitutes a conclusion of law to which no response is required.

30. Denied. Paragraph 30 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

31. Denied. Paragraph 31 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

32. Denied. Paragraph 32 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

33. Denied. Paragraph 33 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

34. Denied. Paragraph 34 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

35. Denied. Paragraph 35 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

36. Denied. Paragraph 36 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

37. Denied. Paragraph 37 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

38. Denied. Paragraph 38 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

39. Denied. Paragraph 39 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

40. Denied. Paragraph 40 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

41. Denied. Paragraph 41 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

42. Denied. Paragraph 42 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

43. Denied. Paragraph 43 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

44. Denied. Paragraph 44 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

45. Denied. Paragraph 45 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

46. Denied. Paragraph 46 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

47. Denied. Paragraph 47 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

48. Denied. Paragraph 48 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

49. Denied. Paragraph 49 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

50. Denied. Paragraph 50 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

51. Denied. Paragraph 51 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

52. Denied. Paragraph 52 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

53. Denied. Paragraph 53 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

54. Denied. Paragraph 54 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

55. Denied. Paragraph 55 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

56. Denied. Paragraph 56 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

57. Denied. Paragraph 57 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

58. Denied. Paragraph 58 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

59. Denied. Paragraph 59 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

60. Denied. Paragraph 60 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

61. Denied. Paragraph 61 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

62. Denied. Paragraph 62 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

63. Denied. Paragraph 63 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

64. Denied. Paragraph 64 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

65. Denied. Paragraph 65 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

66. Denied. Paragraph 66 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

67. Denied. Paragraph 67 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

68. Denied. Paragraph 68 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

69. Denied. Paragraph 69 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

70. Denied. Paragraph 70 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

71. Denied. Paragraph 71 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

72. Denied. Paragraph 72 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

73. Denied. Paragraph 73 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

74. Denied. Paragraph 74 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

75. Denied. Paragraph 75 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

76. Denied. Paragraph 76 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

77. Denied. Paragraph 77 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

78. Denied. Paragraph 78 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

79. Denied. Paragraph 79 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

80. Denied. Paragraph 80 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

81. Denied. Paragraph 81 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

82. Denied. Paragraph 82 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

83. Denied. Paragraph 83 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

**AS TO FIRST CLAIM FOR RELIEF:
FAIR LABOR STANDARDS ACT**

84. Defendants incorporate their answers to the preceding paragraphs as though set forth at length herein.

85. Denied. Paragraph 85 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

86. Denied. Paragraph 86 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

87. Denied. Paragraph 87 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

88. Denied. Paragraph 88 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

89. Denied. Paragraph 89 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

90. Denied. Paragraph 90 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

**AS TO SECOND CLAIM FOR RELIEF:
PENNSYLVANIA WAGE AND HOUR LAW**

91. Defendants incorporate their answers to the preceding paragraphs as though set forth at length herein.

92. Denied. Paragraph 92 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

93. Denied. Paragraph 93 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

94. Denied. Paragraph 94 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

95. Denied. Paragraph 95 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

96. Denied. Paragraph 96 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

**AS TO THIRD CLAIM FOR RELIEF:
PENNSYLVANIA WAGE PAYMENT AND COLLECTION LAW**

97. Defendants incorporate their answers to the preceding paragraphs as though set forth at length herein.

98. Denied. Paragraph 98 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

99. Denied. Paragraph 99 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

100. Denied. Paragraph 100 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

101. Denied. Paragraph 101 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

102. Denied. Paragraph 102 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

103. Denied. Paragraph 103 of the Complaint contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the averment in said paragraph.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs or any plaintiff who may join lacks standing to assert some or all of the claims in the Complaint.
3. The Complaint fails to properly define a putative class on behalf of which a class or collection action may be maintained.
4. This case may not be maintained as a collective or class action because Plaintiffs or any plaintiff who may join are not similarly situated to or otherwise an inadequate representative for the persons whom they purport to represent and, thus, cannot establish the existence of each requirement under 29 U.S.C. §216.

5. Some of the claims of the Plaintiffs or any plaintiff who may join are barred in whole or in part because he or she failed to satisfy the requirements for opting in or to any conditionally certified FLSA claim and/or file consensus to opt in contrary to the FLSA and/or applicable law or orders of Court.

6. All or some of the claims of the Plaintiffs or any plaintiff who may join are barred, in whole or in part by the applicable statutes of limitation.

7. Plaintiffs or any plaintiff who may join are not entitled to any relief under the FLSA because they were fully and justly compensated for all time they were suffered or permitted to work.

8. Plaintiffs or any plaintiff who may join are not entitled to any relief because the alleged work activities which form the basis of the claims, if they occurred, were de minimis.

9. The claims of the Plaintiffs or any plaintiff who may join are barred because Defendants have acted in good faith in conformity with and in reliance on written administrative regulations, orders, rulings, approvals, interpretations, administrative practices and enforcement policies of the United States Department of Labor.

10. Defendants have acted without willfulness, in good faith and with reasonable grounds for believing that they were and are complying with all applicable provisions of law at all times, including good faith with respect to any and all disputed wage claims by Plaintiffs or putative class members. Thus, inter alia, Plaintiffs or any plaintiff who may join are barred from recovering liquidated damages.

11. To the extent that Plaintiffs or any plaintiff who may join are or were an “exempt” employee within the meaning of the federal and state laws, they are not entitled to any relief.

12. Plaintiffs or any plaintiff who may join have failed to satisfy the opt-in requirements of the FLSA.

13. The claims of the Plaintiffs or any plaintiff who may join are barred, or their damages should be reduced, to the extent they were paid extra compensation which is creditable toward, or setoff against, the additional compensation sought in this action pursuant to 29 U.S.C. §207(h) or otherwise.

14. Defendants exercised reasonable care to ensure that its employees were fully compensated for all time worked, and Plaintiffs or any plaintiff who may join unreasonably failed to take advantage of opportunities provided by Defendants to ensure that they would be fully compensated for all time worked.

15. Defendants have not willfully or intentionally failed to pay any compensation due to Plaintiffs and the putative class members to justify any awards or penalties or fees. All actions taken towards them were for lawful business reasons and in good faith.

16. Some or all of the claims of Plaintiffs or any plaintiff who may join are barred by waiver.

17. Plaintiffs or any plaintiff who may join lacks standing to sue on behalf of the purported members of the putative class and this case is not appropriate for a class or collective action.

18. Plaintiffs or any plaintiff who may join do not satisfy the requirements for a class or collective action.

19. Plaintiffs and putative class members' claims are barred in whole or in part to the extent that the work they performed falls within exclusions, exceptions or credits provided for

under Pennsylvania law, including but not limited to exemptions articulated in 43 PS §333.105(a)5.

20. Plaintiffs or any plaintiff who may join were not employees of Defendant All American Hospice Care LLC (“Hospice”).

21. Hospice is a separate and distinct entity.

22. Neither Plaintiffs nor any plaintiff who may join as a basis for or standing to pierce the corporate veil.

23. Defendants paid wages as and at a regular rate agreed upon between Defendants and Plaintiffs. Defendants paid overtime as required.

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